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August 09, 2005

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Re: Petition for Cancellation

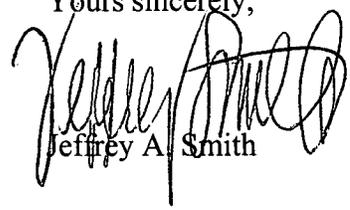
Mark: AQUA VIE
Respondent Name: Aqua Vie Beverage Corporation
Petitioner Name: Regal Wares, Inc.
Registration No.: 2641867
Cancellation No. 92044685
Attorney File No.: AQUA-0018-L

Dear Sir or Madame:

We enclose an original and a duplicate copy of the Answer to a Petition for Cancellation. A copy of said answer has been sent to Petitioner's attorney. We have also included. Additionally, we have attached an appointment of Power of Attorney for this proceeding.

If you have any questions, please do not hesitate to contact us. Thank you for your attention to this matter.

Yours sincerely,


Jeffrey A. Smith



08-09-2005

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #01

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Regal Ware, Inc.,

Petitioner,

v.

Aqua Vie Beverage Corporation,

Respondent.

Cancellation No. 92044685

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

RESPONDENT'S ANSWER TO PETITION FOR CANCELLATION

Respondent, Aqua Vie Beverage Corporation, through its undersigned counsel,
hereby responds to the Petition for Cancellation as follows:

Respondent is the owner of the trademark AQUA VIE as shown in Registration No. 2641867, filed December 26, 2000, registered on the Principal Register on October 29, 2002 for non-alcoholic beverages, namely, flavored drinking and spring water in International Class 032. Aqua Vie Beverage Corporation is doing business at P.O. Box 6759, Ketchum, Idaho 83340.

Respondent is without sufficient information or knowledge to admit that Petitioner, Regal Ware, Inc., is a Delaware corporation with a place of business at 1675 Reigle Drive, Kewaskum, Wisconsin 53040-9400. Therefore, this allegation is denied. It is

admitted that Petitioner has filed a petition to cancel (Cancellation No. 92044685). However, Respondent is without sufficient information or knowledge to admit that Petitioner is or will be damaged by Registration No. 0767659 for the mark KRAZY KORN. Therefore, this portion of the allegation is denied.

1. Respondent denies the allegation in paragraph 1.
2. Respondent admits that Respondent's goods are no longer sold at the <http://shop.store.yahoo.com/aquavie/> web address. However, Respondent denies any implications contained therein including the necessity to sell product through this particular web site and abandonment.
3. Respondent admits that the telephone number (208) 622-7792 is no longer in service. However, Respondent denies any implications contained therein including the necessity to have a listed receiving number to conduct business and abandonment.
4. Respondent admits that it does not have a listed telephone number in the name of Aqua Vie Beverage Corporation in the indicated corporate area of Ketchum, Idaho. However, Respondent denies any implications contained therein including the necessity to have a listed receiving number to conduct business and abandonment.
5. Respondent admits that the referenced civil suit brought by the SEC is pending. Furthermore, it is admitted that the allegation contained in this paragraph emanates from the web site <http://www.sec.gov/litigation/litreleases/lr18966.htm>. However, Respondent denies the veracity of this allegation and any implications therein including abandonment.
6. Respondent admits that admits that one industry news reporting web site, www.bevnet.com indicates "THIS BRAND HAS BEEN DISCONTINUED."

Respondent denies that accuracy of this statement made on this web site and, furthermore, any implications contained therein including abandonment.

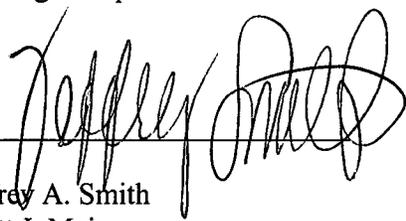
7. Respondent denies the allegation in paragraph 7. One of Respondent's counsel in the referenced SEC case did not use Respondent's P.O. Box address and delivery was therefore unsuccessful. Respondent denies any implications contained therein including abandonment.
8. Respondent is without sufficient information or knowledge to admit the allegations in paragraph 8 as to whether Petitioner has a bona fide intent to use the mark AQUA VIE for goods and intends to file an intent to use application for the mark AQUA VIE. Therefore, the portion of this allegation is denied. As to the portion of this allegation that an intent to use application filed by the Petitioner for the mark AQUA VIE would be refused based on Respondent's Registration No. 2641867, Respondent is without sufficient information or knowledge to admit or deny this allegation because this determination is made by the U.S. Trademark Office during an ex parte examination. However, Respondent admits that Petitioner's referenced AQUA VIE application should be refused based on Respondent's mark.
9. Respondent admits the allegations in paragraph 9 and denies any implications contained therein including abandonment or damage, harm or impairment caused to Petitioner.
10. Respondent denies the allegation in paragraph 10.
11. Respondent denies the allegation in paragraph 11.

WHEREFORE, Respondent prays that the Honorable Board find that Respondent has not abandoned the AQUA VIE mark, Registration No. 2641867, which is the only registration subject to this proceeding and that the Petition for Cancellation be denied.

Respectfully submitted,

Aqua Vie Beverage Corporation

Dated: August 9, 2005

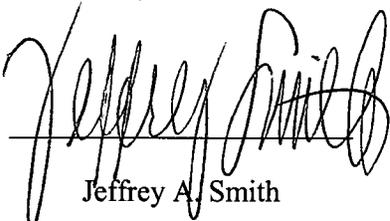
By: 

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Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing RESPONDENT'S ANSWER TO PETITION TO CANCEL upon Petitioner's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid, on August 9, 2005 addressed as follows:

Daniel R. Johnson
Ryan Kromholz & Manion, S.C.
P.O. Box 26618
Milwaukee, Wisconsin 53226


Jeffrey A. Smith

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Registration of:

Aqua Vie Beverage Corporation

Mark: AQUA VIE

Registration No.: 2641867

Registration Date: October 29, 2002

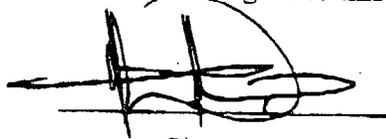
Cancellation No. 92044685

APPOINTMENT OF POWER OF ATTORNEY

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Madame or Sir:

Registrant/Owner hereby appoints Jeffrey A. Smith, a member of the bar of the State of Florida, Scott J. Major, a member of the bar of the State of Virginia, Michael Culver, a member of the bar of the State of Virginia and Jeffrey R. Cohen, a member of the bars of the District of Columbia, Virginia and Maryland of the law firm of Millen, White, Zelano & Branigan, P.C., Attorneys at Law, 2200 Clarendon Boulevard, Suite 1400, Arlington, Virginia 22201, Telephone (703) 243-6333 and Facsimile (703) 243-6410, as its attorneys to defend the above referenced cancellation proceeding with full power of substitution and revocation, to transact all business in the U.S. Patent and Trademark Office connected therewith, and to receive the communications relating thereto. Please direct all communications in regard to this application to Jeffrey A. Smith at (703) 465-5355.



Signature

Tom Gillispie - CEO
Aqua Vie Beverage Corporation

Dated: July 11, 2005